

# SENATE BILL NO. 294

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

0207S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 288, RSMo, by adding thereto one new section relating to the recovery of overpaid unemployment benefits, with an emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 288, RSMo, is amended by adding thereto one new section, to be known as section 288.552, to read as follows:

**288.552. 1. Notwithstanding any provision of law to the contrary, the department of labor and industrial relations, and any division thereof, shall waive the repayment of any unemployment benefits that were incorrectly but nonfraudulently distributed to claimants from the state unemployment compensation trust fund after March 27, 2020, but before December 31, 2020, to the extent that federal law grants the state of Missouri the authority to waive the repayment of such incorrectly but nonfraudulently distributed benefits.**

**2. A waiver of repayment granted to a claimant under subsection 1 of this section shall meet the following criteria:**

**(1) The waiver relates to an incorrectly but nonfraudulently distributed payment of unemployment benefits in which there was no fault on the part of the claimant;**

**(2) The repayment of such benefits by the claimant would be contrary to equity and good conscience; and**

19           (3) The decision to grant the waiver to a claimant is  
20 made on an individualized basis.

21           3. Any claimant denied a waiver pursuant to this  
22 section shall be granted an opportunity for a fair hearing  
23 before the appeals tribunal pursuant to section 288.190.  
24 The filing of an appeal shall stay the collection of the  
25 overpayment or overpayments for which the waiver was denied  
26 until such time that a decision is issued that has become  
27 final. The decision of the appeals tribunal shall be  
28 reviewable by the labor and industrial relations commission  
29 pursuant to section 288.200.

30           4. (1) Any claimant who is denied a waiver pursuant  
31 to this section shall be sent a notice by the department,  
32 not later than ninety calendar days after the effective date  
33 of this section, by both electronic mail and by mail postage  
34 prepaid with a preaddressed return card notifying them of  
35 the right to appeal such decision. If the department does  
36 not receive a response within sixty calendar days from the  
37 claimant, the department shall send another notice by  
38 certified mail with a preaddressed return card. If the  
39 claimant does not respond to the second notice within thirty  
40 days, the department may proceed with collecting the  
41 overpaid benefits.

42           (2) Each notice required by subdivision (1) of this  
43 subsection shall include instructions on how to file an  
44 appeal and shall also include the following in bold at the  
45 top:

46           "ATTENTION: YOU HAVE BEEN OVERPAID UNEMPLOYMENT  
47 BENEFITS.

- 48           • BY LAW, YOU ARE REQUIRED TO REPAY ALL OVERPAID  
49 UNEMPLOYMENT BENEFITS.

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- YOU MAY APPEAL THIS REQUIREMENT.
- IF YOU RETURN THIS CARD TO THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS WITHIN 60 DAYS INDICATING THAT YOU WILL APPEAL, COLLECTION WILL NOT COMMENCE UNTIL AFTER THE APPEAL HAS COMPLETED."

56           (3) If a claimant responds to a notice described in  
57 this subsection indicating that he or she plans to appeal,  
58 the department and any division thereof shall cease all  
59 efforts to recover the overpaid benefits. Notwithstanding  
60 any provision of law to the contrary, under no circumstance  
61 shall the department or any division thereof attempt to  
62 recover the overpaid benefits while the case is pending  
63 appeal, provided that the claimant shall file an appeal not  
64 later than sixty calendar days after notifying the  
65 department of his or her intent to appeal.

66           5. (1) In the event that the department or any  
67 division thereof has over-recovered unemployment  
68 compensation benefits the department shall notify the  
69 claimant by certified mail within fifteen days of discovery  
70 of such over-recovery and:

71           (a) If the over-recovered sums are less than ten  
72 thousand dollars, such sums shall be repaid to the claimant  
73 from whom the sums were recovered not later than thirty days  
74 after the claimant has been notified; and

75           (b) If the over-recovered sums are ten thousand  
76 dollars or more, such sums shall be repaid to the claimant  
77 from whom the sums were recovered within a reasonable time,  
78 as determined through agreement between the department and  
79 the claimant, with interest, as determined by section 32.068.

80           (2) If the department fails to notify the claimant of  
81 an over-recovery as required by subdivision (1) of this  
82 subsection, interest shall accrue, as determined by section  
83 32.068, on any repayment of funds from the date that the  
84 over-recovery was discovered.

85           (3) For purposes of this subsection, "over-recovered  
86 unemployment compensation benefits" means any overpaid  
87 unemployment compensation benefits that have been recovered  
88 by the department of labor and industrial relations or any  
89 division thereof but the amount recovered exceeded what was  
90 required to be recovered under this chapter or under federal  
91 law.

          Section B. Because immediate action is necessary to  
2 protect the financial welfare of the residents of this  
3 state, section A of this act is deemed necessary for the  
4 immediate preservation of the public health, welfare, peace,  
5 and safety, and is hereby declared to be an emergency act  
6 within the meaning of the constitution, and section A of  
7 this act shall be in full force and effect upon its passage  
8 and approval.

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